

UNITED STATES DISTRICT COURT
IN THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION

THOMAS DOMONOSKE,
VICTOR RIVERA
Individually and on behalf others

Plaintiff

-vs-

Case No. 05:08-CV-00066
Hon. Samuel G. Wilson
Magistrate Judge: Michael F. Urbanski

BANK OF AMERICA, N.A.,

Defendant

DECLARATION OF IAN B. LYNGKLIP

Ian B. Lyngklip makes the following statement under oath as an attorney of record and officer of the court:

1. My name is Ian B. Lyngklip.
2. I am an attorney of record in this case.
3. My current billing rate is \$375 per hour.
4. Accompanying this declaration is a summary of the time which I expended in the litigation of this case.
5. I previously submitted a Declaration and a detailed billing of my time at the request of Magistrate Judge Urbanski. See R. 83, filed on December 18, 2009.
6. Since filing that declaration and billing, I have expended an additional 159.8 hours of time on this case, for a total of 923.81 hours expended by myself and my firm's associated attorneys.
7. The summary of hours which accompanies this declaration was prepared from

- a. The prior billing records submitted to the Court.
 - b. The billing records prepared following that submission.
8. All of the billing records which were used to prepare that summary were created from either contemporaneous time records relating to my work in this case or documents which were prepared contemporaneously with the activity for which I later billed.
9. Along with my colleagues, I have allocated my customary billing records in this case into broad categories. We have created these categories in order to insure a degree of uniformity between the billing records of our respective firms and to ease the burden on the Court which might otherwise arise in reviewing billings in a variety of formats. The categories were formulated in order to allow the Court to evaluate the time expended in relation to the benefits conferred upon the class in obtaining the settlement of this case.
10. I prepared my contributions to the summary spread sheet by creating totals for each of my firm's customary billing categories, and assigning those categories to the broad areas within the summary spread sheet. In many instances, the individual billing items could have appropriately been included within more than one of the available categories. In those instances, I allocated the time between those billing items according to the predominant purpose of the item where possible. Where that was not possible, I categorized the item in a fashion consistent with the billing practices of my co-counsel. I have maintained records of the underlying billing items including descriptions, as well as the totals, and the categories to which they have been assigned, and this underlying documentation is available for the Court's review upon request.
11. In addition to expenditure of time, I have also expended \$5,073 in advancing the case as follows:

- a. \$678 for travel to Charlotte, NC for the Deposition of Marty Smith.
 - b. \$909 for travel to San Francisco for mediation.
 - c. \$1,119 for travel to San Francisco for a second round of mediation.
 - d. \$410 for lodging in San Francisco.
 - e. \$1,101 for travel to Harrisonburg for hearing on preliminary approval of this matter.
 - f. \$713 for travel to Harrisonburg for a status conference.
 - g. \$143 for lodging in Harrisonburg in advance of the status conference.
12. I state my qualifications below.
 13. I am the senior member in the Law Firm of Lyngklip & Associates Consumer Law Center, PLC.
 14. From 1998-2007 I was the senior member in the Law Firm of Lyngklip & Taub Consumer Law Group, PLC.
 15. I am also Of Counsel to the Consumer Law Group of Newport News Virginia.
 16. I am a graduate of the University of Detroit Mercy Law School, J.D. *Summa Cum Laude*, as of May 1992.
 17. I have been a practicing attorney since November 1992.
 18. I have been admitted to practice before the following courts:
 - a. Courts of the State of Michigan as of November 17, 1992.
 - b. United States District Court, Eastern District of Michigan, November 23, 1992.
 - c. United States District Court, Western District of Michigan, September 20, 2000.
 - d. United States Court of Appeals for the 6th Circuit, September 25, 2001.
 19. I have been admitted by *Pro Hac Vice* to practice before the following courts:
 - a. United States District Court for the Eastern District of Virginia.

- b. United States District Court for the Western District of Virginia.
 - c. United States District Court for the District of Connecticut.
 - d. United States District Court for the Western District of Oklahoma.
 - e. United States District Court for the Eastern District of Louisiana.
 - f. United States District Court for the Central District of California.
20. I have focused my practice on consumer matters since 1995, and litigated those cases predominantly in the Federal Court system since year 2000.
21. I am a current member of the State Bar of Michigan's Consumer Law Section.
- a. I served as a Council Member of the State Bar of Michigan's Consumer Law Section from 1997-2001.
 - b. I served as the Chairperson of the State Bar of Michigan's Consumer Law Section Council in 2000.
22. I am a member in good standing of the National Association of Consumer Advocates.
- a. I served on the Board of Directors of National Association of Consumer Advocates from 2004-2010.
 - b. I have served as the National Association of Consumer Advocates's State-Coordinator for the State of Michigan since 2005.
 - c. I served as the Co-Chair person of the Board of Directors of the National Association of Consumer Advocates's from 2005-2009.
23. I am the recipient of
- a. Oakland County Bar Association Pro Bono Service Award, 2005.
 - b. The Frank Kelly Consumer Advocate Award, Michigan State Bar Association Consumer Law Section, September 30, 2004.

- c. The Consumer Advocate of the Year, National Association of Consumer Advocates, October 2003.
24. I have been selected for inclusion in the Key Professional Media, Inc. list of "Superlawyers" within the State of Michigan in
- a. Calendar year 2006.
 - b. Calendar year 2007 .
 - c. Calendar year 2008.
 - d. Calendar year 2009.
 - e. Calendar year 2010.
25. I am the author of
- a. Debt Collector Liability Under the FDCPA for Failure to Note a Consumer Dispute Before Transfer to Next Collector, Michigan Consumer Law Section Newsletter, April 2008, Volume 12, No. 1. Copy available at <http://www.michbar.org/consumer/pdfs/ap08.pdf>.
 - b. Remedies for Identity Theft Victims: Strategies for Protecting and Preserving Clients' Rights by Gary M. Victor and Ian B. Lyngklip, Michigan Bar Journal, October 2006, Volume 85, No. 10. Copy available at <http://www.michbar.org/journal/pdf/pdf4article1061.pdf>.
 - c. Topical Summary of Consumer Protection Statutes Applicable in Proceedings In Michigan Courts, Presented to the Michigan Judicial Institute, March 29, 2004.
 - d. Trade Secrets, Protective Orders and the Smoking Gun, The Consumer Advocate, Volume 9 Issue 4, October 2003.
 - e. Top 5 Mistakes of general practitioners in handling identity thefts and credit

reporting disputes. Ingham County Bar Associate Briefs, October 2003

- f. The Court of Appeals Provides Guidance Interpreting Potential Violations of the MCPA. Consumer Law Newsletter, Volume 4 No. 1, January 2000.
 - g. Motor Vehicle Repair Fees and the Consumer, Consumer Law Newsletter, Volume 2 No. 2, June 1998.
 - h. Civil RICO and Environmental Harms, University of Detroit Law Review, 1992.
- 26. I am a contributing author to National Consumer Law Center's Fair Credit Reporting Manual, Sixth Edition (Chapter 8).
 - 27. I have served as the National Association of Consumer Advocates, FCRA Conference Steering Committee Chair Person for 2001-2004.
 - 28. I have served on the National Association of Consumer Advocates, Auto Fraud Conference Steering Committee 2005.
 - 29. I have served on the National Association of Consumer Advocates, FCRA Conference Steering Committee 2001-2007.
 - 30. I have served on the National Association of Consumer Advocates, FDCPA Conference Steering Committee for 2004-2008.
 - 31. I have been asked to speak by the FTC to speak at the following events
 - a. The FTC-sponsored Debt Collection Workshop on October 11, 2007 concerning collection practices in the 21st century in Washington, DC.
 - b. The FTC-sponsored Debt Collection Roundtable August 5, 2009 concerning the role of the Fair Debt Collection Practices Act in state court litigation and arbitration proceedings, held in Chicago, IL.
 - 32. I have conducted training of consumer advocates around the country as well as training

Judges and Legislators within the state of Michigan and the Consumer Defense bar.

- a. Oakland County Bar Association Pro Bono Panel Training, Troy, Michigan January 21, 2011. (Fair Debt Collection Practices Act Primer)
- b. NCLC National Consumer Rights Litigation Conference, October 22-25, 2009. Philadelphia, PA (Defense of debt collection actions in State Court).
- c. Michigan Poverty Law Program Consumer Road Show, October 5, 2009 (Fair Debt Collection Practices Act and Debt Defense in Michigan Courts).
- d. NCLC National Consumer Rights Litigation Conference, October 24-27, 2008. Portland, OR (Defense of debt collection actions in State Court).
- e. Michigan Poverty Law Program Consumer Road Show, September 23, 2008 (A consumer attorney primer on the Fair Debt Collection Practices Act and defense of debt collection actions in the Michigan District Courts).
- f. Michigan District Judges Association Annual Conference, August 14 2008. (Topics included debt collection actions in the Michigan District Courts).
- g. Michigan House of Representatives Consumer Protection Forum, January 23, 2008. Anderson House Office Building.
- h. Michigan House of Representatives Consumer Protection Forum, October 31, 2007. Anderson House Office Building.
- i. National Consumer Law Center *Annual Conference*, Washington, D.C, November 8-11, 2007 (topics include State Law Issues in Credit Card Debt Defense and Top 10 Arguments by Credit Reporting Agencies and Furnishers of Credit Debt).
- j. National Association of Consumer Bankruptcy Attorneys *Fall Workshop*, J.W. Marriot, Las Vegas Nevada, October 26, 2007. (Topics included credit reporting

issues relating to debt collection and bankruptcy.)

- k. National Consumer Law Center *Annual Conference*, Miami, FL, November 10-13, 2006 (topics include primer on Fair Credit Reporting Act, Auto Finance Fraud introduction, and Electronic Discovery in Auto Finance Fraud cases).
- l. Practicing Law Institute, Fair Credit Reporting Litigation update, Chicago, IL. April 28, 2006.
- m. National Consumer Law Center *Annual Conference*, Boston, MA, November 5-7, 2005 (topics include primer on Fair Credit Reporting Act, Autofraud introduction, Federal Claims for Autofraud, and protective order procedure).
- n. Missouri State Bar Association, Consumer Law Training, Real World Solutions for Real World Problems. October 21, 2005, St. Louis, MO.
- o. National Association of Consumer Advocates *Midyear Conference on Fair Credit Reporting Act*, New Orleans, LA, June 3-5, 2005 (subjects include drafting reinvestigation letters, basic claims, reseller issues and depositions on credit denials.).
- p. Michigan Institute of Continuing Legal Education, *Consumer Law and Practice: What You Need to Know*, anticipated date May 3, 2005, Troy, MI.
- q. American Bar Association Telephone CLE, *The Changing Face of Consumer Law*, December 14, 2004.
- r. National Consumer Law Center *Annual Conference*, Boston, MA, anticipated November 5-7, 2004 (topics include primer on Fair Credit Reporting Act, panel member on Autofraud Round Table, and Office Automation).
- s. Michigan Poverty Law Program Road Show, Autofraud Primer and ABC's of Fair Credit Reporting, Lansing, Michigan, September 17, 2004.

- t. Legal Aid and Defender Association, *Fair Debt Collection Practices Training*, Detroit, MI, August 13, 2004.
- u. National Association of Consumer Advocates *Midyear Conference on Fair Credit Reporting Act*, Chicago, IL, May 14-16, 2004 (subjects included jargon of FCRA, Case Management, Corporate Deposition Procedure, Protective Orders, and Office Automation Technology).
- v. Committee on Regional Training for Michigan Poverty Law Program, Ohio State Legal Services Association, and Legal Aid of West Virginia. Advanced Substantive Law Consumer Training Session, Cleveland, Ohio. Anticipated May 5, 2004. (topics include primer on Credit Reporting Issues in Fair Debt Collection Practices Cases).
- w. Michigan Creditor's Bar Association, Annual Meeting, Novi Michigan. Anticipated April 22, 2004. *Consumer Statutes Applicable to Creditor's Attorneys*.
- x. Michigan Judicial Institute, Annual Meeting, Lansing Michigan. March 29, 2004, *Consumer Issues in the District Court* (topics included consumer issues for Judges, Fair Debt Collection Practices, Federal Consumer Credit Protection Act).
- y. National Consumer Law Center *Fair Debt Collection Practices Training Conference*, Kansas City, MO, Anticipated Date February 21, 2004 (topics include primer on Credit Reporting Issues in Fair Debt Collection Practices Cases).
- z. National Consumer Law Center *Annual Conference*, Oakland, CA, October 25, 2003 (topics include primer on Fair Credit Reporting Act, panel member on FCRA Round Table).
- aa. Michigan District Judges Association Conference, Frankenmuth, Michigan. September 24, 2003 (topics included consumer issues for Judges, Fair Debt

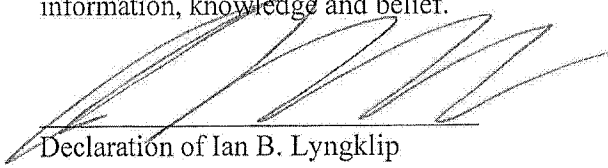
Collection Practices, Federal Consumer Credit Protection Act, Securitization).

- bb. Florida Bar Association *Consumer Law Section Training*, Orlando Florida. June 27, 2003 (topics included identifying and handling credit reporting errors).
- cc. UAW Legal Service *Quarterly Training*, Lansing, MI May 30, 2003 (topics included auto fraud basics, FCRA basics).
- dd. National Association of Consumer Advocates *Midyear Conference on Autofraud*, Cleveland, OH, April 25-27 2003 (Topics included claims under the Consumer Credit Protection Act and proper limits of protective orders).
- ee. National Association of Consumer Advocates *Midyear Conference on Fair Credit Reporting Act*, Orlando, FL, March 7-9 2003 (subjects included jargon of FCRA, reading credit reports, debt collection misuse of credit reports, case management).
- ff. National Association of Consumer Advocates *Midyear Conference on Fair Credit Reporting Act*, Albuquerque, NM, June 2002.
- gg. ICLE (Institute for Continuing Legal Education), *Making Consumer Law Part of Your Practice*, February 15, 2002, Troy, Michigan. (Topics included Autofraud).
- hh. Michigan Poverty Law Center *Road Show*, October 3, 2001 (subjects included advanced topics in auto finance fraud and TILA).
- ii. Consumer Law Section *Annual Meeting*, State Bar of Michigan, September 2001. (topics include Proper Limits of Arbitration in Consumer Cases).
- jj. Michigan Consumer Law Task Force, June 21, 2001 (subjects included identity theft and civil remedies).
- kk. Consumer Credit Counseling Services of Michigan *Training*, May 2001 (subjects included Fair Credit Reporting Act).

- ll. Michigan Poverty Law Center *Road Show*, November 1999 (subjects included primer on auto warranty and advanced topics under Michigan Consumer Protection Act.).
 - mm. UAW Legal Services *Consumer Training*, November 1998 (subjects included auto repair and liens).
33. I have participated as counsel of record where class certifications were approved in the following cases:
- a. *Wilder v. Triad*, Case No. 03cv863 (ED VA)
 - b. *Sivla v. Haynes Furniture*, Case No. 3:04cv325 (E.D. VA).
 - c. *Webb v. Westborn Chrysler*, Case No. 03-71077 (E.D. MI).
 - d. *Ard v. Equipax*, Case No. 02-73674, (E.D. MI).
 - e. *Flowers v. Mel Farr Motors, Inc.*, Case No. 01-72528 (Oakland Circuit Court).
 - f. *Daniel v. Bill Snethkamp, Inc.*, 00-019252-CK.(Wayne Circuit MI).
34. I have participated in cases where class certifications were preliminarily approved and final approval is pending:
- a. *Domonoske v. Bank of America*, 5:08-cv-00066 (W.D. VA)
 - b. *White v. Equifax*, 2:05-cv-7821 (CD CA)
35. As of September 2008, I will be acting as an adjunct professor at the University of Detroit Mercy School of Law, Consumer Defense Clinic.
36. I have personal knowledge of the facts stated in this affidavit.

37. If called to testify as a witness, I can testify truthfully to the facts stated above.

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my information, knowledge and belief.



Declaration of Ian B. Lyngklip

Executed in Southfield, Michigan this Date 2/3/11